

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 99-7611**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

NADINE SHARISE HORTON,

Defendant - Appellant.

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Appeal from the United States District Court for the Eastern District of North Carolina, at Wilmington. W. Earl Britt, Senior District Judge. (CR-92-28, CA-99-90-7-BR)

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Submitted: March 23, 2000

Decided: March 30, 2000

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Before LUTTIG, WILLIAMS, and MICHAEL, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Nadine Sharise Horton, Appellant Pro Se. David Paul Folmar, Jr., Assistant United States Attorney, Greensboro, North Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Nadine S. Horton seeks to appeal the district court's order denying her motion for certificate of appealability. We dismiss the appeal for lack of jurisdiction because Horton's notice of appeal was not timely filed.

Parties are accorded sixty days after entry of the district court's final judgment or order to note an appeal, see Fed. R. App. P. 4(a)(1)(B), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). The appeal period is "mandatory and jurisdictional." Browder v. Director, Dep't of Corrections, 434 U.S. 257, 264 (1978) (quoting United States v. Robinson, 361 U.S. 220, 229 (1960)).

The district court's order was entered on the docket on May 29, 1998. Horton's notice of appeal was filed on October 22, 1999.\* Because Horton failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are

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\* The notice of appeal filed in this court on October 22, 1999, refers to a notice of appeal of July 19, 1999 (possibly meaning 1998). Neither this court nor the district court has any record of such a notice of appeal.

adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED